

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PAUL ROBERTS,

Plaintiff,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 1:21-cv-00506-JLT (PC)

**FINDINGS AND RECOMMENDATIONS
TO DENY PLAINTIFF'S MOTION TO
PROCEED *IN FORMA PAUPERIS***

(Doc. 2)

14-DAY DEADLINE

Clerk of the Court to Assign a District Judge

Before the Court is Plaintiff's motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (Doc. 2.) The certified trust account statement submitted by the California Department of Corrections and Rehabilitation indicates that Plaintiff has more than \$900 in his trust account. (Doc. 6.) This is more than enough to pay the \$402 filing fee for this action in full. In his motion, Plaintiff concedes that he is "able to pay the fees" for this case. (Doc. 2 at 1.)

Proceeding "in forma pauperis is a privilege not a right." *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965). While a party need not be completely destitute to proceed *in forma pauperis*, *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948), "the same even-handed care must be employed to assure that federal funds are not squandered to underwrite, at public expense, either frivolous claims or the remonstrances of a suitor who is financially able, in whole or in material part, to pull his own oar." *Doe v. Educ. Enrichment Sys.*, No. 15-cv-2628-MMA-

1 MDD, 2015 U.S. Dist. LEXIS 173063, *2 (S.D. Cal. 2015) (quoting *Temple v. Ellerthorpe*, 586
2 F. Supp. 848, 850 (D.R.I. 1984)).

3 Plaintiff has adequate funds to pay the filing fee for this action in full. Accordingly, the
4 Court RECOMMENDS that his motion to proceed *in forma pauperis* be DENIED. The Court
5 DIRECTS the Clerk of the Court to assign a district judge to this action.

6 These Findings and Recommendations will be submitted to the United States District
7 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 14 days** of the date of
8 service of these Findings and Recommendations, Plaintiff may file written objections with the
9 Court. The document should be captioned, “Objections to Magistrate Judge’s Findings and
10 Recommendations.” Failure to file objections within the specified time may result in waiver of
11 rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*
12 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

13 IT IS SO ORDERED.
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15 Dated: March 27, 2021

/s/ Jennifer L. Thurston
16 UNITED STATES MAGISTRATE JUDGE
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